

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 128 of 1989

The Commissioner of Income Tax ... Applicant.

vs.

M/s. Aegis Chemicals Industries Ltd., ... Respondent

Mr. Ashok Kotangale for Applicant.

Mr. V. B. Patel for Respondent.

CORAM: V. C. DAGA

AND

A. S. AGUIAR JJ.

Date: 4th July, 2005.

P. C. :

1. The question of law referred to this court for opinion under section 256(1) of the Income-tax Act, by the Tribunal at the instance of the assessee are as follows:

1) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the expenditure of Rs.1,47,500/- incurred by M/s. Aegis Chemicals Industries Ltd., in connection with the amalgamation of Everest Refrigerats Ltd., with the

assessee – company was not revenue expenditure?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the expenditure of Rs.82,339 incurred by the assessee, in connection with the proceedings under sections 397 and 398 of the Companies Act is expenditure wholly and exclusively laid out for the purpose of business within the meaning of section 37(1) of the Income Tax Act, 1961?

2. The issue involved in this reference stands answered by the Apex Court in the case of **Commissioner of Income Tax VS. Bombay Dyeing And Manufacturing Co., Ltd.**, reported in [1996] 219 ITR p. 521 wherein the Apex Court was pleased to hold that the professional charges paid by the assessee – company to its solicitors in connection with the amalgamation of the company constituted revenue expenditure. In this view of the matter we hold that the expenditure of Rs. Rs.1,47,500/- incurred in connection with the amalgamation as also the expenditure of Rs.82,339/- incurred by the assessee – company in connection with the proceedings under sections 397 and 398 of the Companies Act is expenditure wholly and exclusively laid for the purpose of business

was a revenue expenditure within the meaning of section 37(1) of the Income Tax Act , 1961. Accordingly, the first question is answer in the negative, that is, in favour of the assessee and against the Revenue and th second questions answered in the affirmative, that is, in favour of the assessee and against the Revenue.

(V. C. DAGA J.)

(A. S. AGUIAR J.)

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